

Proposed Technical Correction

SECTION #.(a) G.S. 14-113.9 reads as rewritten:

"§ 14-113.9. Financial transaction card theft.

(a) A person is guilty of financial transaction card theft when the person does any of the following:

- (1) Takes, obtains or withholds a financial transaction card from the person, possession, ~~custody~~custody, or control of another without the cardholder's consent and with the intent to use it; or who, with knowledge that it has been so taken, ~~obtained~~obtained, or withheld, receives the financial transaction card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder.
- (2) Receives a financial transaction card that he or she knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and ~~who~~ retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder.
- (3) Not being the issuer, sells a financial transaction card or buys a financial transaction card from a person other than the issuer.
- (4) Not being the issuer, during any 12-month period, receives financial transaction cards issued in the names of two or more persons which he or she has reason to know were taken or retained under circumstances ~~which~~that constitute a violation of G.S. 14-113.13(a)(3) and subdivision (3) of subsection (a) of this section.
- (5) With the intent to defraud any person, either (i) uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on another person's financial transaction card, or (ii) receives the encoded information from another person's financial transaction card.

★ (b) ~~Credit~~Financial transaction card theft is punishable as provided by G.S. 14-113.17(b). (1967, c. 1244, s. 2; 1979, c. 741, s. 1; c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 2002-175, s. 3.)"

[SECTION #.(b) This section becomes effective December 1, 2021, and applies to offenses committed on or after that date.]

Explanation

This technical correction would change the term "credit card" to the Article's defined term, "financial transaction card." The correction was brought to our attention by the criminal law drafters in the Legislative Analysis Division of the General Assembly. Chapter 741 of the 1979 Session Laws, in rewriting the entire article on credit card fraud, changed the originally enacted term "credit card theft" to "financial transaction card theft." Three days after the enactment of Chapter 741 of 1979, the Fair Sentencing Act was enacted in Chapter 760 of the 1979 Session Laws. One small provision rewrote G.S. 14-113.9(b) using the previous "credit card theft" term. It is staff's belief that this was due to a lack of awareness that the term had been changed to "financial transaction card theft" just a few days prior.

Background Information

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 741
HOUSE BILL 1199

AN ACT TO REWRITE ARTICLE 19B OF CHAPTER 14, THE CREDIT CARD CRIME ACT.

The General Assembly of North Carolina enacts:

Section 1. Article 19B of Chapter 14 of the General Statutes is rewritten to read as follows:

"ARTICLE 19B.

"Financial Transaction Card Crime Act.

...

"§ 14-113.9. Financial transaction card theft. — (a) A person is guilty of financial transaction card theft when:

- (1) He takes, obtains or withholds a financial transaction card from the person, possession, custody or control of another without the cardholder's consent and with the intent to use it; or who, with knowledge that it has been so taken, obtained or withheld, receives the financial transaction card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder; or
- (2) He receives a financial transaction card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder; or
- (3) He, not being the issuer, sells a financial transaction card or buys a financial transaction card from a person other than the issuer; or
- (4) He, not being the issuer, during any 12-month period, receives financial transaction cards issued in the names of two or more persons which he has reason to know were taken or retained under circumstances which constitute a violation of G.S. 14-113.13(a)(3) and subdivision (3) of subsection (a) of this section.

(b) Taking, obtaining or withholding a financial transaction card without consent is included in conduct defined in G.S. 14-75 as larceny.

Conviction of financial transaction card theft is punishable as provided in G.S. 14-113.17(b).

...

Sec. 2. This act shall become effective August 1, 1979.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 760
SENATE BILL 560

AN ACT TO ESTABLISH A FAIR SENTENCING SYSTEM IN NORTH CAROLINA
CRIMINAL COURTS.

The General Assembly of North Carolina enacts:

...

Sec. 5. The following statutes pertaining to punishments for felonies are amended as indicated. All statutory references are to the current replacement volume of the General Statutes, unless "(1977)" appears, in which case the reference is to the 1977 Cumulative Supplement.

...

G.S. 14-113.9(b) is deleted and rewritten to read as follows: "Credit card theft is punishable as provided by G.S. 14-113.17(b)."

...

Sec. 6. This act shall become effective on July 1, 1980, and shall apply only to offenses committed on or after that date, unless specific language of the act indicates otherwise.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.